

SENATE BILL No. 451

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-1.

Synopsis: Health professions bureau. Provides the boards that are under the jurisdiction of the health professions bureau with additional options when considering the renewal application of a practitioner. (Current law provides for license renewal or denial of the license renewal.) Provides that a practitioner is subject to further disciplinary sanctions if, after a hearing, a board finds that the practitioner failed to comply with an order that was issued as a disciplinary sanction.

Effective: July 1, 1999.

Miller

January 13, 1999, read first time and referred to Committee on Health and Provider Services.



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 451

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-1-5-4 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The bureau shall employ
3 necessary staff, including specialists and professionals, to carry out the
4 administrative duties and functions of the boards, including but not
5 limited to:
6 (1) notice of board meetings and other communication services;
7 (2) recordkeeping of board meetings, proceedings, and actions;
8 (3) recordkeeping of all persons licensed, regulated, or certified
9 by a board;
10 (4) administration of examinations; and
11 (5) administration of license or certificate issuance or renewal.
12 (b) In addition the bureau:
13 (1) shall prepare a consolidated statement of the budget requests
14 of all the boards in section 3 of this chapter;
15 (2) may coordinate licensing or certification renewal cycles,
16 examination schedules, or other routine activities to efficiently
17 utilize bureau staff, facilities, and transportation resources, and to



improve accessibility of board functions to the public; and
 (3) may consolidate, where feasible, office space, recordkeeping,
 and data processing services.

(c) In administering the renewal of licenses or certificates under this chapter, the bureau shall issue a sixty (60) day notice of expiration to all holders of a license or certificate. The notice shall be accompanied by appropriate renewal forms.

(d) In administering an examination for licensure or certification, the bureau shall make the appropriate application forms available at least thirty (30) days before the deadline for submitting an application to all persons wishing to take the examination.

(e) The bureau may require an applicant for license renewal to submit evidence proving that:

(1) the applicant continues to meet the minimum requirements for licensure; and

(2) the applicant is not in violation of:

(A) the statute regulating the applicant's profession; or

(B) rules adopted by the board regulating the applicant's profession.

(f) The bureau may delay issuing a license renewal for up to ninety (90) days after the renewal date for the purpose of permitting the board to investigate information received by the bureau that the applicant for renewal may have committed an act for which the applicant may be disciplined. If the bureau delays issuing a license renewal, the bureau shall notify the applicant that the applicant is being investigated.

Except as provided in subsection (g), before the end of the ninety (90) day period, the board shall either do one (1) of the following:

(1) Deny the license renewal following a personal appearance by the applicant before the board. ~~or~~

(2) Issue the license renewal upon satisfaction of all other conditions for renewal.

(3) Issue the license renewal and file a complaint under IC 25-1-7.

(4) Request the office of the attorney general to conduct an investigation under subsection (h) if, following a personal appearance by the applicant before the board, the board has good cause to believe that there has been a violation of IC 25-1-9-4 by the applicant.

(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, renew the license and place the applicant on probation status under IC 25-1-9-9.

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(g) If an individual fails to appear before the board under subsection (f), the board may take action on the applicant's license allowed under subsection (f)(1), (f)(2), or (f)(3).

(h) If the board makes a request under subsection (f)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-9-4. If the office of the attorney general files a petition, the board shall set the matter for a hearing. If, after the hearing, the board finds the practitioner violated IC 25-1-9-4, the board may impose sanctions under IC 25-1-9-9. The board may delay issuing the renewal beyond the ninety (90) days after the renewal date until a final determination is made by the board. The applicant's license remains valid until the final determination of the board is rendered unless the renewal is denied or the license is summarily suspended under IC 25-1-9-10.

(i) The license of the applicant for a license renewal remains valid during the ninety (90) day period unless the license renewal is denied following a personal appearance by the applicant before the board before the end of the ninety (90) day period. If the ninety (90) day period expires without action by the board, the license shall be automatically renewed at the end of the ninety (90) day period.

(h) (j) Notwithstanding any other statute, the bureau may stagger license or certificate renewal cycles. However, if a renewal cycle for a specific board or committee is changed, the bureau must obtain the approval of the affected board or committee.

SECTION 2. IC 25-1-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) **This section does not apply to:**

(1) a complaint filed by:

(A) a member of any of the boards listed in section 1 of this chapter; or

(B) the health professions bureau; or

(2) a complaint filed under IC 25-1-5-4.

(b) The director has the following duties and powers:

(1) He shall make an initial determination as to the merit of each complaint. A copy of a complaint having merit shall be submitted to the board having jurisdiction over the licensee's regulated occupation, that board thereby acquiring jurisdiction over the matter except as otherwise provided in this chapter.

(2) He shall through any reasonable means notify the licensee of the nature and ramifications of the complaint, and of the duty of



the board to attempt to resolve the complaint through negotiation.

(3) He shall report any pertinent information regarding the status of the complaint to the complainant.

(4) He may investigate any written complaint against a licensee. The investigation shall be limited to those areas in which there appears to be a violation of statutes governing the regulated occupation.

(5) He has the power to subpoena witnesses, send for and compel the production of books, records, papers and documents, for the furtherance of any investigation under this chapter. The circuit or superior court located in the county where the subpoena is to be issued shall enforce any such subpoena by the director.

SECTION 3. IC 25-1-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. **(a) This section does not apply to:**

(1) a complaint filed by:

(A) a member of any of the boards listed in section 1 of this chapter; or

(B) the health professions bureau; or

(2) a complaint filed under IC 25-1-5-4.

(b) If, at any time before the director files his recommendations with the attorney general, the board files with the director a statement signed by the licensee and the complainant that the complaint has been resolved, the director shall not take further action. For a period of thirty (30) days after the director has notified the board and the licensee that a complaint has been filed, the division shall not conduct any investigation or take any action whatsoever, unless requested by the board. If, during the thirty (30) days, the board requests an extension of the thirty (30) day time period, the director shall grant it for a period not exceeding an additional twenty (20) days. If at any time during the thirty (30) day period or an extension thereof, the board notifies the director of its intention not to proceed further to resolve the complaint, the division may proceed immediately under this chapter. For every purpose of this section, a board may designate a board member or staff member to act on behalf of or in the name of the board.

SECTION 4. IC 25-1-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds:

(1) a practitioner has:



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- 1 (A) engaged in or knowingly cooperated in fraud or material
- 2 deception in order to obtain a license to practice;
- 3 (B) engaged in fraud or material deception in the course of
- 4 professional services or activities; or
- 5 (C) advertised services in a false or misleading manner;
- 6 (2) a practitioner has been convicted of a crime that has a direct
- 7 bearing on the practitioner's ability to continue to practice
- 8 competently;
- 9 (3) a practitioner has knowingly violated any state statute or rule,
- 10 or federal statute or regulation, regulating the profession in
- 11 question;
- 12 (4) a practitioner has continued to practice although the
- 13 practitioner has become unfit to practice due to:
- 14 (A) professional incompetence that:
- 15 (i) ~~includes~~ **may include** the undertaking of professional
- 16 activities that the practitioner is not qualified by training or
- 17 experience to undertake; and
- 18 (ii) does not include activities performed under
- 19 IC 16-21-2-9;
- 20 (B) failure to keep abreast of current professional theory or
- 21 practice;
- 22 (C) physical or mental disability; or
- 23 (D) addiction to, abuse of, or severe dependency upon alcohol
- 24 or other drugs that endanger the public by impairing a
- 25 practitioner's ability to practice safely;
- 26 (5) a practitioner has engaged in a course of lewd or immoral
- 27 conduct in connection with the delivery of services to the public;
- 28 (6) a practitioner has allowed the practitioner's name or a license
- 29 issued under this chapter to be used in connection with an
- 30 individual who renders services beyond the scope of that
- 31 individual's training, experience, or competence;
- 32 (7) a practitioner has had disciplinary action taken against the
- 33 practitioner or the practitioner's license to practice in any other
- 34 state or jurisdiction on grounds similar to those under this
- 35 chapter;
- 36 (8) a practitioner has diverted:
- 37 (A) a legend drug (as defined in IC 16-18-2-199); or
- 38 (B) any other drug or device issued under a drug order (as
- 39 defined in IC 16-42-19-3) for another person; ~~or~~
- 40 (9) a practitioner, except as otherwise provided by law, has
- 41 knowingly prescribed, sold, or administered any drug classified
- 42 as a narcotic, addicting, or dangerous drug to a habitue or addict;

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1 **or**

2 **(10) a practitioner has failed to comply with an order**
 3 **imposing a sanction under section 9 of this chapter.**

4 (b) A certified copy of the record of disciplinary action is conclusive
 5 evidence of the other jurisdiction's disciplinary action under subsection
 6 (a)(7).

7 SECTION 5. IC 25-1-9-9 IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) The board may impose any
 9 of the following sanctions, singly or in combination, if it finds that a
 10 practitioner is subject to disciplinary sanctions under section 4, 5, ~~or~~ 6,
 11 **or 6.7** of this chapter **or IC 25-1-5-4:**

- 12 (1) Permanently revoke a practitioner's license.
- 13 (2) Suspend a practitioner's license.
- 14 (3) Censure a practitioner.
- 15 (4) Issue a letter of reprimand.
- 16 (5) Place a practitioner on probation status and require the
 17 practitioner to:
 - 18 (A) report regularly to the board upon the matters that are the
 19 basis of probation;
 - 20 (B) limit practice to those areas prescribed by the board;
 - 21 (C) continue or renew professional education under a
 22 preceptor, or as otherwise directed or approved by the board,
 23 until a satisfactory degree of skill has been attained in those
 24 areas that are the basis of the probation; or
 - 25 (D) perform or refrain from performing any acts, including
 26 community service without compensation, that the board
 27 considers appropriate to the public interest or to the
 28 rehabilitation or treatment of the practitioner.

29 (6) Assess a fine against the practitioner in an amount not to
 30 exceed one thousand dollars (\$1,000) for each violation listed in
 31 section 4 of this chapter, except for a finding of incompetency due
 32 to a physical or mental disability. When imposing a fine, the
 33 board shall consider a practitioner's ability to pay the amount
 34 assessed. If the practitioner fails to pay the fine within the time
 35 specified by the board, the board may suspend the practitioner's
 36 license without additional proceedings. However, a suspension
 37 may not be imposed if the sole basis for the suspension is the
 38 practitioner's inability to pay a fine.

39 (b) The board may withdraw or modify the probation under
 40 subsection (a)(5) if it finds, after a hearing, that the deficiency that
 41 required disciplinary action has been remedied, or that changed
 42 circumstances warrant a modification of the order.

